



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,872	07/10/2003	Rickey J. Thomas	0275Y-000703	1565

27572 7590 11/15/2006

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER

BLAKE, CAROLYN T

ART UNIT PAPER NUMBER

3724

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,872

Applicant(s)

THOMAS ET AL.

Examiner

Carolyn T. Blake

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3, 4, 6 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3, 4, 6 and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment and remarks filed on October 25, 2006.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 24 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

5. In claim 24, the limitation requiring "said blade is secured relative to said handle in each of a lengthwise direction of said blade, a widthwise direction of said blade, and a depth wise direction of said blade by a positive engagement of said blade with one of more of said handle and said blade mounting screw" constitutes new matter because it was not sufficiently described in the original specification.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3724

7. Claims 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 24, it is not understood what is meant by the limitation "said blade is secured relative to said handle in each of a lengthwise direction of said blade, a widthwise direction of said blade, and a depth wise direction of said blade by a positive engagement of said blade with one of more of said handle and said blade mounting screw." It seems as though three positions are being claimed, although only two are disclosed. Clarification is required.

Claim Rejections - 35 USC § 102

8. Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Davey (2,017,895).

Davey discloses a hand saw (10) as claimed, comprising: a handle (12) including a hand grip portion (20) and first and second blade mounting portions, said hand grip portion defining an inner surface, said first blade mounting portion (including 24 and 27 at A) being disposed on a side surface of said handle and said second blade mounting portion (including 24 and 27 at C) being disposed on a bottom surface of said handle; and a blade (11) removably mounted to either of said first and second blade mounting portions and extending in a first direction away from said handle, wherein said inner surface of said hand grip portion is oriented at an acute angle relative to said first direction, and wherein said first and second blade mounting portions each include a key (27) adapted to be received in an end slot (15) in said blade.

Claim Rejections - 35 USC § 103

9. Claims 3, 4, 6, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davey (2,017,895) in view of Applicant's Admitted Prior Art (hereinafter, AAPA).

Davey discloses a hand saw (10) substantially as claimed, comprising: a handle (12) including a hand grip portion (20) and first and second blade mounting portions, said first blade mounting portion (including 24 and 27 at A) being disposed on a side surface of said handle and said second blade mounting portion (including 24 and 27 at C) being disposed on a bottom surface of said handle; and a blade (11) adapted to be removably mounted to either of said first and second blade mounting portions, wherein said handle (12) is a single, integrally formed member, and wherein said first and second blade mounting portions each include a key (27) adapted to be received in an end slot (15) in said blade.

Davey fails to disclose the blade mounting portions each include a screw boss or a screw. However, in the last Office action, Official notice was taken it is old and well known in the art to use a boss while attaching two parts in order to guide a fastener. Applicant failed to traverse the merits of this assertion, so the common knowledge is taken to be admitted prior art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a boss with the Davey device for the purpose of guiding the fastener. In addition, it would have been obvious to one of ordinary skill in the art to use an alternative fastener, such as a screw, with the Davey device since such fasteners are known equivalents.

Claims 24 and 25 are rejected as best understood.

Response to Arguments

10. Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues the 103 rejection teaches away from the Davey reference because a screw would require moving parts. This argument is not persuasive. Fasteners such as screw, nails, pins, bolts, and the like are known equivalents since they all perform the same function of securing components to one another. Based on availability of tooling or personal preference, one type of fastener may be preferable to another in certain applications. Surely, Applicant cannot think the instant application is patentable because it uses a screw. Just because the Davey blade "can be attached and detached without moving parts" does not mean it would not have been obvious to modify the device with an equivalent fastener that requires a moving part or that the combination teaches away from the reference.

Regarding Applicant's use of directional terms such as "top," "bottom," "side," and the like, these terms carry little meaning unless they are properly constrained with the structural elements.

While differences may exist between Applicant's invention and the prior art of record, these differences have not been claimed.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3724

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Thursday, 7:00 AM to 5:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CB

CB

November 1, 2006



BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER